

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO. 2053 OF 2019****IN****WRIT PETITION NO. 6014 OF 2016**

Sulochana Ananda Walke

.....Applicant.

Vs.

State of Maharashtra & Ors.

.....Respondents.

Mr. N.P. Bhavsar for the Applicant.

Mr. P.P. Pujari AGP, for the Respondent Nos. 1 to 3-State.

Mr. J.A. Udaipuri i/by M/s. Udaipuri and Co. for the Respondent No.4.

CORAM : A. S. GADKARI, J.**DATE : 19th SEPTEMBER, 2019.****P.C.:-**

This is an Application for restoration of Writ Petition No. 6014 of 2016, which was dismissed for non-prosecution by Order dated 9th August, 2019. The reasons for dismissal are elaborately recorded in the said Order.

2 In the present Application, a further statement is made that, on 9th August, 2019, the Advocate on record for the Petitioner was held up before the Small Causes Court at Bandra and was busy in cross-examining a witness who had come down from Calcutta. In support of this contention, Roznama of the Small Causes Court is

annexed at page No.21 to the present Application. The learned counsel for the Applicant submitted on 9th August, 2019 his junior inadvertently stated that, the Advocate on record is held up before the Family Court, however as a matter of fact, the Advocate on record for the Petitioner was held up at Small Causes Court, Bandra.

3 Mr. Udaipuri, the learned counsel appearing for the Respondent No.4 vehemently opposed the Application and submitted that, similar excuses given by the Advocates are deprecated by the Hon'ble Supreme Court in its Order dated 7th February, 2019 passed in Civil Appeal No. 6156 of 2012. He further submitted that, the decorum from Advocate demands that, he should first attend the High Court and will thereafter give preference to other matters before other Courts, if the Petitioner is really serious in prosecuting the Petition.

Mr. Udaypuri, further however, fairly submitted that, if this Court is inclined to restore the Petition, the Applicant/Petitioner may be saddled with exemplary costs.

4 At the profuse pleadings of the learned counsel appearing for the Applicant/Original Petitioner, I am inclined to restore the Writ Petition and ad-interim relief granted by Order dated 9th March, 2016, subject to condition that, the Applicant/Petitioner shall pay a costs of

Rs.20,000/- to the High Court Legal Services Committee, Mumbai, having its account in the name of "*High Court Legal Aid Fund*" within a period of two weeks from today. It is made clear that, the period to deposit the said amount will not be further extended.

It is further made clear that, if the Applicant/Petitioner fails to deposit the said costs with the concerned Authority within stipulated period, the order restoring Petition and ad-interim relief shall stand vacated, without further reference to this Court.

In view of the above, Application is allowed in terms of prayer clause (a).

(A.S. GADKARI, J.)